IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 653 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

MANGALBHAI SUFRABHAI KHANT

Appearance:

1. Criminal Appeal No. 653 of 1991

MR KT DAVE, A.P.P.for Petitioner No. 1

NOTICE SERVED for Respondent No. 1-4

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 21/01/2003

ORAL JUDGEMENT

1. The State of Gujarat has challenged, in this Appeal, the impugned Judgment and order of acquittal passed by the learned J.M.F.C., Santrampur, dated 6.6.1991, in Criminal Case No.1328/89, whereby the learned Magistrate acquitted all the 4 respondents accused for the offence u/s. 498-A I.P.C. as he was of the opinion that the prosecution has failed to prove the

charge beyond reasonable doubt levelled against all the respondents - accused.

2. In the instant case Diwaliben committed suicide in Jungle. From the Judgment of the learned Magistrate it appears that the Police filed charge-sheet against the accused for the offence u/s. 498-A I.P.Code only. Accordingly, all the accused were tried for the offence u/s. 498-A I.P.Code only. The learned Magistrate noted that at least on 7 occasion summons were issued for keeping the prosecution witnesses present, but inspite of that though the case was was old one and pending since last 3 years before the learned Magistrate the witnesses have not come forward to depose against the accused except Mashurabhai Bhurabhai Pagi, Ex.18. But, he had admitted in his evidence that he was not knowing any strain relationship between Diwaliben and her husband and other accused.

3. Under the circumstances, when the learned Magistrate has given cogent reason for acquitting the respondents - accused for the offence for which it is alleged to have committed way back on 1.4.1989 i.e. after a period of about 14 years then this Court would not like to interfere with such an acquittal order passed by the learned Magistrate.

4. In view of the above, this Appeal fail and is hereby dismissed.

Date : January 21, 2003 (B.J.Shethna, J.)

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